

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Charlotte Ann Smith,)
) Civil Action No. 0:10-3168-MBS-JRM
Plaintiff,)
vs.)
)
Bank of America, NA, as Successor by Merger)
La Salle Bank NA as Trustee for Certificate holder)
of EMC Mortgage Corporation, Loan Trust)
2005-A- Mortgage Loan Pass Through Certificates) **REPORT AND RECOMMENDATION**
Series 2005-A; EMC Mortgage Corporation, and)
Parent Companies; The Bear Stearns Companies)
LLC; JP Morgan Chase & Companies; Guardian)
Fidelity Mortgage, Inc.; Guardian President and)
CEO Howard H. Wright, Jr.; Guardian Assistant)
Manager Stacy Youngblood; Guardian Chairman)
of the Board John Good; Guardian Member)
Owners/Shareholder/Stockholders,)
)
Defendants.)
_____)

Charlotte Ann Smith,)
) Civil Action No. 0:11-3251-MBS-JRM
Plaintiff,)
vs.)
)
Bank of America, NA, as Successor by Merger)
La Salle Bank NA as Trustee for Certificate holder)
of EMC Mortgage Corporation, Loan Trust)
2005-A- Mortgage Loan Pass Through Certificates) **REPORT AND RECOMMENDATION**
Series 2005-A; EMC Mortgage Corporation, and)
Parent Companies; The Bear Stearns Companies)
LLC; JP Morgan Chase & Companies; Guardian)
Fidelity Mortgage, Inc.; Guardian President and)
CEO Howard H. Wright, Jr.; Guardian Assistant)
Manager Stacy Youngblood; Guardian Chairman)

of the Board John Good; Guardian Member)
Owners/Shareholder/Stockholders, Bear Stearnes)
Companies LLC, JP Morgan Chase & Co.,)
)
Defendants.)
_____)

Pro se Plaintiff, Charlotte Ann Smith (“Smith”), apparently has developed a strategy of filing complaints in the Court of Common Pleas of York County, and after removal to this Court, filing successive complaints in state court alleging nearly identical claims against the same Defendants. The record shows that Smith filed Smith v. Chase Bank and Mortgage, et al., 10-882-JFA-JRM (“Smith I”) in state court, and the case was removed to this Court. Thereafter, she filed a second case in state court Smith v. Bank of America, et al., 10-3168-JFA-JRM (“Smith II”), which was removed to this Court. The cases were consolidated and Smith I was dismissed. A number of motions, including motions to dismiss Smith II filed by Smith, are pending in Smith II. In those motions Smith asserts that she wishes Smith II dismissed because she intended to file a comprehensive suit in state court upon which she wishes to proceed. She, indeed, filed that action and it was removed to this Court. *See* Smith v. Bank of America, NA, 11-3251-MBS-JRM (“Smith III”). Defendants have moved to consolidate Smith II and Smith III. Smith has not objected to the motion to consolidate.

In as much as Smith has moved to dismiss Smith II and Defendants have moved that Smith

II and Smith III be consolidated, it is recommended that Defendants' motion to consolidate be **granted** and that Smith II be **dismissed**.



Joseph R. McCrorey
United States Magistrate Judge

Columbia, South Carolina

December 29, 2011

The parties are referred to the Notice Page attached hereto.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).